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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,469	12/08/2004	David C Kress	056231-9001	1363

  

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EXAMINER	
GETZOW, SCOTT M	

  

ART UNIT	PAPER NUMBER
3762	

  

MAIL DATE	DELIVERY MODE
01/18/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/517,469

Applicant(s)

KRESS ET AL.

Examiner

/Scott M. Getzow/

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/2/05</u> . | 6) <input type="checkbox"/> Other: ____  |

1. The abstract of the disclosure is objected to because it should be wholly contained on a separate sheet. Correction is required. See MPEP § 608.01(b).

*Claim Rejections - 35 USC § 102*

2. Claims 1,6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by McGee et al (5,860,920).

McGee is considered to teach all of the subject matter of the above claims, see figure 5 for example.

3. Claims 1,6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Mest (6,564,096).

Mest is considered to teach all of the subject matter of the above claims, see figure 1 for example.

*Claim Rejections - 35 USC § 103*

4. Claims 2-5,13-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGee et al (5,860,920).

Re claims 2-5, the device of McGee could be modified in an obvious manner to connect to a variety of devices, such as stimulators or recorders. Re the method steps of claims 13+, one of ordinary skill in the art, which is typically a physician, would understand and appreciate that taking a baseline electrogram before ablating the tissue would be

essential in order to make sense of the subsequent electrogram to determine if the ablation was successful. Re claims 29+, one of ordinary skill in the art would know that various devices, such as programmers, are useful in modifying various system parameters which allows the physician to determine the proper stimulation level of the stimulus pulses, such as is commonly done in EP testing.

5. Claims 2-5, 13-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mest (6,564,096).

The comments above regarding the McGee patent also apply to the device of Mest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Scott M. Getzow/ whose telephone number is (571) 272-4946. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott M. Getzow/  
Primary Examiner  
Art Unit 3762

SMG